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Paper No. 5

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**FEB 20 2003**

**OFFICE OF PETITIONS**

In re Application of  
James A. Tarara  
Application No. 09/784,426  
Filed: February 16, 2001  
Attorney Docket No. D.1482

ON PETITION

This is a decision on the petition filed January 27, 2003, to revive the above-identified application on the grounds of unintentional delay.

The petition is Dismissed.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 19, 2001, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 20, 2001.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled Renewed Petition under 37 CFR 1.137(b). This is **not** final agency action within the meaning of 5 U.S.C. 704.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1) and (3).

<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or

As to item (1), The Notice to File Corrected Application Papers (Notice) mailed March 19, 2001 required substitute drawings in compliance with 37 CFR 1.84. Accordingly, substitute drawings in compliance with 37 CFR 1.84 must be submitted. For petitioner's convenience a copy of the Notice mailed March 19, 2003 will be mailed with this decision.

Applicant believes that no fee is due for this petition because the Notice to File Corrected Application papers was not received. However, a review of the contents of the application file reveals no irregularity in the mailing of the Notice mailed March 19, 2001. Therefore, a petition fee of \$650 will be charged to petitioner's deposit account.

In order to expedite a decision on the petition, petitioner may wish to consider submitting the response to the mailing address indicated below and to the attention of the undersigned.

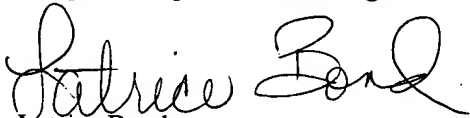
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, DC 20231

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond  
Paralegal Specialist  
Office of Petitions  
Office of the Deputy Commissioner  
For Patent Examination Policy

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lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.